

**REMARKS**

This is in full and timely response the Office Action mailed on July 12, 2005. The present Amendment amends the specification to better reflect the language of the original application. Additionally, claims 2 and 3 are presently amended to further clarify a portion of the scope sought to be patented, and otherwise dispute certain findings of fact made in connection with the rejection of the claims. New claim 4 has also been added to depend from independent claim 2. Support for these amendments can be found variously throughout the specification, including, for example, in original claims 2 and 3, and on page 3, lines 4-6 of the specification.

Accordingly, claims 2 through 4 are presently pending in the application, each of which is believed to be in condition for allowance. Reexamination and reconsideration in light of the present Amendment and the following remarks are respectfully requested.

*No new matter has been added.*

**Rejections under 35 U.S.C. § 112**

In the Action, claims 2 and 3 were rejected under 35 U.S.C. § 112, second paragraph, for alleged indefiniteness. Applicant respectfully traverses this rejection. However, in order to expedite prosecution, claims 2 and 3 have been amended to clarify the subject matter of those claims and to place them in conformance with current U.S. practice.

Claims 2 and 3 have been amended to more particularly distinguish the use of the medium and the thermal conduction sheet.

Additionally, Claim 3 has been amended to better define the use of the thermal conduction material, which is used as the medium in the claim. Support for the amendment can be found on page 8, line 17 through page 9, line 16 of the specification, and in drawings 7 and 8. The disclosure clearly indicates that the thermal conduction material used as the medium in the embodiment described is a highly conductive material (graphite is cited as an example) wherein heat is exchanged without movement of the conductive material.

Withdrawal of this rejection is therefore courteously solicited.

**Rejections under 35 U.S.C. § 102**

In the Action, claim 2 was rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,761,908 to Oas et al. This rejection is respectfully traversed.

To properly anticipate a claim, the document must disclose, explicitly or implicitly, each and every feature recited in the claim. *See, e.g., Verdegall Bros. v. Union Oil Co. of Calif.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Oas teaches of an air-to-air heat exchanger, wherein out going air contacts a heat exchanger, which contacts incoming air. There is no mention in Oas of a medium contacting the heat exchanger (i.e. Peltier device), which medium is used to transfer heat to another portion of the building. Claim 2 of the present application specifically claims a medium connected to the Peltier device, which medium has the purpose of conducting heat to each room of a building.

Additionally, Oas does not disclose a thermal conduction sheet which radiates heat from the medium to each room. Claim 2 of the present invention distinctly claims a “thermal conduction sheet that radiates heat conducted via the medium to each room”.

Accordingly, because Oas fails to disclose, teach or suggest each and every limitation of claim 2, a *prima facie* anticipation rejection has not been established, and withdrawal of this rejection is respectfully requested. *See, e.g., Verdegall Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference”).

**Newly added claim**

Claim 4 depends from claim 2 and is drawn to the “medium” used in the claim. Claim 4 specifies the medium is to be chosen from a group consisting of a fluid other than air, a solid and a mixture of a fluid and a solid.

The addition of claim 4 narrows the scope of the medium, and further defines the medium composition. Support for claim 4 is found in the specification on page 3, lines 3 through 6.

Allowance of the claim is respectfully requested.

### **Conclusion**

For the foregoing reasons, all the claims now pending in the present application are allowable, and the present application is in condition for allowance. Accordingly, favorable reexamination and reconsideration of the application in light of the remarks is courteously solicited.

If the Examiner has any comments or suggestions that could place this application in even better form, the Examiner is requested to telephone Brian K. Dutton, Reg. No. 47,255, at 202-955-8753.

If any fee is required or any overpayment made, the Commissioner is hereby authorized to charge the fee or credit the overpayment to Deposit Account # 18-0013, under Order No. KAK-0013, from which the undersigned is authorized to draw.

Dated: October 7, 2005

Respectfully submitted,

By 

Brian K. Dutton

Registration No.: 47,255  
RADER, FISHMAN & GRAUER PLLC  
1233 20th Street, N.W.  
Suite 501  
Washington, DC 20036  
(202) 955-3750  
Attorney for Applicant